IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

WP(C).No. 18988 of 2005(I)

PETITIONER:

M/S. JANCO DIPPED PRODUCTS PVT. LTD.,
PLOT NO.18, COCHIN SPECIAL ECONOMIC ZONE, KAKKANAD,
COCHIN-682 037, REP. BY ITS MANAGING DIRECTOR,
HARI G.NAIR.

BY ADV. SRI.MATHEWS J.NEDUMPARA
SRI.S.JAMAL

RESPONDENT:

THE ASSISTANT PROVIDENT FUND
COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANIZATION
KALOOR, COCHIN.

BY ADV. SRI.S.GOPAKUMARAN NAIR, SC, P.F.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19/12/2007, ALONG WITH WPC NOS. 11228/2006 AND 32897/2007
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.18988/2005

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE REGISTRATION CERTIFICATE NO:F3(J-8)BC/2003 DATED 25-2-2004.

EXT. P2: COPY OF THE ASSESSMENT ORDER DATED 10-2-2004.

EXT. P3: COPY OF THE APPEAL U/S.71 OF THE EPF ACT.

EXT. P4: COPY OF THE ACKNOWLEDGEMENT CARD.

EXT. P5: COPY OF THE ORDER IN W.P.(C) NO.27226/2004 DATED 16-9-2004.

EXT. P6: COPY OF THE ORDER IN W.P.(C) NO.27226/2004 DATED 20-9-2004.

EXT. P7: COPY OF THE PAYMENT CHALLAN DATED 3-1-2005 FOR RS.35,842/-

EXT. P8: COPY OF THE JUDGMENTION W.P.(C) NO.27226/2004 DATED 23-11-2004.

EXT. P9: COPY OF THE LETTER DATED 11-2-2005.

EXT. P9(A): COPY OF THE LETTER DATED 17-2-2005.

EXT. P9(B): COPY OF THE LETTER DATED 10-3-2005.

EXT. P10: COPY OF THE SHOW CAUSE NOTICE DATED 31-5-2005.

RESPONDENT'S EXHIBITS:

ANNEXURE 1: COPY OF THE LETTER DATED 19.10.2004 RECEIVED FROM THE REGISTRAR OF THE TRIBUNAL.

/TRUE COPY/

P.A. TO JUDGE

JP

S.SIRI JAGAN, J.

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W.P.(C) Nos.18988/2005, 11228/2006 & 32897/2007

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Dated this the 19th day of December, 2007

JUDGMENT

These writ petitions have been filed by a company represented by its managing director and the Managing Director in his individual capacity challenging coercive proceedings for recovery of amounts assessed under the Employees Provident Fund and Miscellaneous Provisions Act. Although originally the petitioners disputed liability to pay, now they confine their reliefs for permission to pay off the balance amounts due in instalments.

2. I have heard the learned standing counsel appearing for the Provident Fund Organisation also. He stoutly opposes the prayer of the petitioners. According to him, the petitioners were given sufficient indulgence in the matter even by the Provident Fund Organisation which the petitioners have not chosen to avail of.

3. I have considered the rival contentions in detail. In

the facts and circumstances of the cases, I feel that some more leniency can be shown to the petitioners in the matter of repayment of the amounts due in instalments. Accordingly, these writ petitions are disposed of with the following directions. The petitioners shall pay the balance amounts due in six equal monthly instalments starting from 1.1.2008. Subsequent instalments shall be paid on the first working day of every succeeding month. If the petitioners pay the instalments on the due dates without default further proceedings pursuant to the orders impugned in these writ petitions shall be kept in abeyance. However, if the petitioners commit default in payment of any one instalment, the provident fund organisation would be free to continue proceedings as now initiated without having to issue any further notice or proceedings in that regard.

S.SIRI JAGAN,
JUDGE

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